IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Tr.P(C).No. 117 of 2007()

OP.42/2007 of FAMILY COURT, KASARAGOD
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Petitioner

JACOB JOE, S/O.PALLIPARAMBIL LATE
ABRAHAM, PERUMPALLICHERI DESOM, CHOVOOR VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT, POST CHERP.

BY ADV. SRI.P.K.ANIL

RESPONDENT:

CHEERAN PREMA, MARY'S PARDISE,
DOOR NO.4-61/5,NEAR MAHAKALI TEMPLE,
BERIBAIL KONCHADI,ASHOK NAGAR P.O.,
MANGLORE, KARNATAKA STATE.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007 ALONG WITH Tr.P(C) NO.118/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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Tr.P.(C).Nos.117 & 118 of 2007

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Dated this the 10th day of September, 2007.

JUDGMENT

These transfer petitions are filed to effect transfer of O.P.Nos.42 and 43 of 2007 pending before the Family Court, Kasaragod to the Family Court, Thrissur. These petitions are filed by the husband against the wife and child. As per an order of this Court in Transfer Petition 124 of 2006 both the cases were transferred to the Family Court, Kasaragod taking into consideration the difficulty experienced by the wife.

2. Thereafter, unfortunately, the husband met with an accident and it is submitted that he is suffering from hemi pa resis and he needs regular check up for six months and he is advised not to travel more than one hour. Six months stipulated is almost over. It is seriously opposed by the counsel for the wife and child on the ground that they are in a helpless position and in order to reach Thrissur from Mangalore where they are residing, they have to board down at Thrissur in the midnight in the

railway station and instances are not rare where case was adjourned for the non-presence of the husband. Certainly, she is entitled to preference in a case of this nature. But at the same time, unfortunately, the husband also got involved in an accident. But it is not as projected by the husband because everyday he is in a position to travel from Irinjalakuda to Mannuthy to attend his day today work. He is also carrying out his work. Therefore, sitting in a train and reaching Mangalore may not cause much difficulty rather than if one travels through the present road conditions. So, I am not inclined to retransfer the case back to Thrissur, but I feel that the husband's problem also can be resolved in the following way.

3. The Family Court, Kasaragod is directed not to insist for the presence of the husband on each posting date. It can insist for his presence when evidence is to be taken. I am informed that the councilling is already over. When the matter is listed and taken up, the court is directed to have a day today trial so that evidence can be taken within two or three days and so further presence of the husband may not be necessary. I also direct the Family Court not to include the case in the list of

another six weeks, so that the husband can almost fully recover from the ailment and attend the Family Court. The court below in consultation with the counsel appearing for both sides fix a date for trial and direct the parties to be present for taking evidence on that date. Parties are directed to appear before the court below on 10.10.2007.

Transfer Petitions are disposed of as above.

M.N.Krishnan,
Judge.

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